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the shipper as to stoppage putting an end to the contract of carriage and creating the relation of mere bailment. *Rosenthal* v. *Weir* (1902), 170 N. Y. 148, 63 N. E. Rep. 655.

The effect of the exercise of the seller's right to stop is to restore his right of possession and lien, but it does not rescind the sale. *Diem* v. *Koblitz*, 49 Oh. St. 41; *Sheppard* v. *Newhall*, 7 U. S. App. 544; MECHEM ON SALES § 1611-12. If the carrier, after the exercise of such right, delivers the goods to the buyer, he is liable in conversion for their value. *Litt* v. *Cowley*, 7 Taunt. 169; *Jones* v. *Earl*, 37 Cal. 630. The principal case, in holding that the law creates a new relation in case of stoppage in transitu to which the bill of lading has no reference, relies on *Pontifex* v. *Railway Co.*, 3 Q. B. Div. 23, where the facts are somewhat similar, but the question determined is not as to the effect of any limitation in a contract of carriage, but that the action is founded not on contract but on tort.

CARRIERS—TORT—EJECTION OF PASSENGER FOR FAILURE TO PRODUCE TICKET.—Plaintiff purchased of defendant's agent a railway ticket, stipulating with the agent for a stop-over privilege. The ticket given him did not allow stop-over, and was taken up by the conductor, against plaintiff's protest, before the train reached the "stop-off" station. Plaintiff, however, exercised his right to stop-over, and in due time attempted to continue his journey without procuring another ticket. He explained the situation to the second conductor, but refused to pay fare. In accordance with the rules of the company, the conductor telegraphed for instructions, and was told to eject plaintiff, which he proceeded to do. Action for damages for the unlawful ejection. *Held*, that plaintiff can recover, and is not confined to his action for breach of contract. *Scofield* v. *Penn. Co.* (1902), 50 C. C. A. 553, 112 Fed. Rep. 855.

The authorities are sharply in conflict upon the question of the respective rights of carrier and passenger where through negligence or mistake of the carrier's servants, the passenger finds himself without evidence of the contract he has made with the carrier.

A general rule followed by many courts is that, as respects the conductor and passenger, and the right of the latter to travel, the ticket produced must be conclusive evidence, and he must produce it when called upon as the evidence of his right to the seat he claims. *Frederick* v. *M. H. & O. Railway*, 37 Mich. 342; *Townsend* v. *N. Y. C. Railway*, 56 N. Y. 295; *Bradshaw* v. *Railway Co.* 135 Mass. 407; *Shelton* v. *L. S. & M. S. R. R.* 29 Ohio St. 214; *Yarton* v. *L. S. & W. Railway*, 54 Wis. 234; *Poulin* v. *Canadian P. Railway*, 52 Fed. 197, 17 L. R. A. 800; HUTCHINSON'S CARRIERS, § 580 j. and cases cited.

Other courts hold that the passenger has the right to rely upon the acts and statements of the ticket agent from whom he purchased his ticket, and that if expelled from the train when he has acted in good faith, and is without fault, the carrier is liable in damages for such expulsion, whether the action is brought for a breach of the contract, or solely for the tort of the conductor. *N. Y. L. E. & W. Railway* v. *Winter*, 143 U. S. 60; *Northern Pacific Railway* v. *Pauson*, 70 Fed. 585, 17 C. C. A. 287; *L. E. & W. Railway* v. *Fix*, 88 Ind. 381; *Palmer* v. *Railway Co.* 3 S. C. 580; *Hufford* v. *G. R. & I. Railway*, 64 Mich. 631.

The principal case is distinguishable from the great majority of cases involving the ejection of passengers in the circumstance that before ejecting his passenger the agent communicated with his company and acted upon telegraphic instruction. This, as the court points out, takes the case out of the rule that,

as between conductor and passenger, the ticket is conclusive. However, this was not a controlling element in the case, as the court distinctly disapproves an instruction of the lower court embodying the rule of the conclusiveness of the evidence afforded by the ticket, and cites with approval *Winter* v. *Railway* (supra) and other cases which modify or deny the rule.

By taking this stand the court places itself in accord with the view which, it is believed, is supported by the decided weight of modern authority. 5th Am. & Eng. Encyc. of Law, 603; *Penna. Co.* v. *Bray*, 125 Ind. 229; *Murdock* v. *Railway*, 137 Mass. 293; *Sloane* v. *So. Cal. Railway*, 111 Cal. 668; *Muckle* v. *Rochester R. R.* 79 Hun 33, (limiting *Townsend* v. *Railway*, supra.)

CONFLICT OF LAWS—BONA VACANTIA—RIGHT OF SUCCESSION—"MOBILIA SEQUUNTUR PERSONAM."—An Austrian who was entitled to a fund in court in England, died in Vienna, a bastard, intestate and without heirs. By Austrian law the succession of an Austrian citizen in such a case is confiscated as heirless property by the *fiscus*. The Austrian government having claimed the fund: *Held*, that as the right claimed was not in the nature of a succession, the maxim "*Mobilia sequuntur personam*," did not apply, and that the crown by the law of England, was entitled to the fund as *bona vacantia*. *In re Barnett's trusts*, [1902] 1 Ch. 847.

The property here appertained to the crown, as *jure regalia*. The fact that the Austrian died heirless made his domicile immaterial. *Dyke* v. *Walford*, 5 Moo. P. C. 434; WESTLAKE'S PRIV. INTER. LAW, 3d ed. p. 168. sec. 62. This decision is in direct conflict with the theory which now undoubtedly prevails in Germany, that if there is no one nearer in blood to be called to the succession, a man's fellow-citizen is regarded as his heir. BAR'S PRIV. INTER. LAW, 2d ed. p. 843, Sec. 387. The American courts have not as yet decided upon this particular question; however, they seem to favor the English rule. *Mayo* v. *Equitable, etc., Society*, 71 Miss. 590; *Ross* v. *Ross*, 129 Mass. 343.

CONFLICT OF LAWS—ITALIAN MARRIAGE—DECEASED HUSBAND'S BROTHER.—A naturalized Italian woman, domiciled in Italy, married her deceased husband's brother, an Italian, domiciled in Italy. The marriage, which was solemnized in Italy, after the necessary dispensations had been obtained, was undoubtedly valid in Italy. In an action in England involving the validity of the marriage, *Held*, that, notwithstanding Lord Lyndhurst's act, the marriage was valid in England. *In re Bozzelli's Settlement*, *Husey-Hunt* v. *Bozzelli*, [1902] I Ch. 751.

The law of the common domicile is sufficient to determine marriage capacity, except in case of marriage stamped as incestuous by the general consent of Christendom. *Brook* v. *Brook*, 9 H. L. C. 193; *Sottomayor;* v. *De Barros*, [1887], 3 P. D. 1. Such American decisions as there are, seem to be in conflict with this holding: *Medway* v. *Needham*, 16 Mass. 157; *Sutton* v. *Warren*, 10 Met. 451.

CONSTITUTIONAL LAW—EQUAL PROTECTION—REFUSING BARBER'S LICENSE TO AN ALIEN.—A statute of Michigan (Acts of 1899, No. 212) provided for the examination and licensing of barbers. The statute also provided that no person examined should receive a certificate who at the time of such examination was an alien. Relator, who was a resident of the state but not a citizen (though he had declared his intention to become one) applied for examination, but his application was rejected on the ground that he was an alien. He then applied for mandamus, contending that the provision was in violation of the Fourteenth Amendment, in that it denied to him the equal